

Serial No.: 09/432,820
Filing Date: November 2, 1999

Remarks

Claims 24, 26-33, 41-50 and 52 are rejected under 35 U.S.C. § 112, first paragraph, on the ground that the specification does not contain an adequate written description of the term “antigenic determinant” as it pertains to SEQ ID NO:2.

As admitted by the Examiner, this issue was previously addressed and resolved until its reemergence in this Office Action.

Preliminarily, it is noted that the stringent hybridization referred to in the application, in the claims and in the Examiner’s Office Action defines the scope of homologs of SEQ ID NO:2. Language relating to the use of proteins that are “Mycobacteria homologs” of SEQ ID NO:2 was deleted from the claims in the Response filed May 22, 2003. Accordingly, continued reference by the Examiner to such language is totally irrelevant to the pending claims which call for the use of a protein having the amino acid sequence of SEQ ID NO:2 or an antigenic determinant thereof.

In addition, the Examiner asserts that the Western blotting performed on cell lysates raises an issue as to where the antigenic determinant is located. However, the fact remains that this polypeptide specifically reacts with polyclonal antibodies in serum pooled from a population of TB positive humans. Therefore, SEQ ID NO: 2 encodes a protein having one or more antigenic determinants relevant to infection by virulent tuberculosis. At the time of the filing of the application, the identification of antigenic determinants of proteins was and is routine. The specification states that “[T]he antigens identified here can be further used to determine which segments of these antigens are recognized by Mycobacterium tuberculosis specific T-cells.” See page 29, lines 14-17. Accordingly, the applicants have provided a protein sequence which specifically binds to serum from humans infected with virulent Mycobacteria TB. Thus, one or more antigenic determinants must be contained within that sequence. This is more than a sufficient indication that applicant must have possessed the invention as presently claimed at the time of the filing of the application.

Serial No.: 09/432,820
Filing Date: November 2, 1999

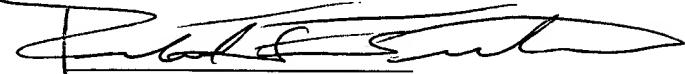
Claim 50 is newly rejected as set forth at page 4 of the Office Action. Claim 50 has been amended as suggested by the Examiner. In addition, the misspelling of Mycobacteriam has been corrected.

Based on the foregoing, it is submitted that the claims are in condition for allowance and a prompt notice to that effect is earnestly solicited.

Respectfully submitted,
DORSEY & WHITNEY LLP

Date: February 24, 2005

Suite 3400, Four Embarcadero Center
San Francisco, California 94111-4187
(415) 781-1989


Richard F. Trecartin (31,801)
Filed under 1.34 (a)
Customer No. 32940

1162296